

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LISA GARVEY, individually and on behalf of
others similarly situated cashiers in the Tulare
Kmart store,

No. C 11-02575 WHA

Plaintiff,

FINAL PRETRIAL ORDER

v.

KMART CORPORATION,

Defendant.

FOR GOOD CAUSE and after a final pretrial conference, the Court issues the
following final pretrial order:

1. This case shall go to a **BENCH TRIAL** on **NOVEMBER 13, 2012**, at **7:30 A.M.**, and
shall continue until completed on the schedule discussed at the conference. The issues to be
tried shall be those set forth in the joint proposed pretrial order except to the extent modified by
order *in limine*. This final pretrial order supersedes all the complaint, answer and any
counterclaims, cross-claims or third-party complaints, *i.e.*, only the issues expressly identified
for trial remain in the case.

2. Rulings on the motions *in limine* have been filed in a separate order.

3. Except for good cause, each party is limited to the witnesses and exhibits
disclosed in the joint proposed final pretrial order less any excluded or limited by an order
in limine. Materials or witnesses used solely for impeachment need not be disclosed and may
be used, subject to the rules of evidence.

1 4. The stipulations of facts set forth in the joint proposed final pretrial order are
2 approved and binding on all parties.

3 5. Each side shall have **TWELVE HOURS** to examine witnesses (counting direct
4 examination, cross-examination, re-direct examination, re-cross examination, etc.).
5 Opening statements and closing arguments shall not count against the limit. If, despite being
6 efficient, non-duplicative, and non-argumentative in the use of the allotted time, one side runs
7 out of time and it would be a miscarriage of justice to hold that side to the limit, then more time
8 will be allotted.

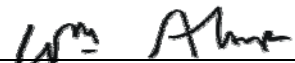
9 6. The parties shall follow the Court's current *Guidelines for Trial and*
10 *Final Pretrial Conference*, separately provided and available on the Internet at
11 <http://www.cand.uscourts.gov>, which guidelines are incorporated as part of this order.

12 7. Absent very good cause, a witness may be called only if the witness is on the
13 proponent's most-current rolling, written list of the next seven witnesses and has been on the
14 list at least 38 (not 48) hours. Said list may be updated each day by 5 p.m. and shall include
15 seven or fewer names. Witnesses need not be called in the sequence indicated but they must be
16 on the most current rolling list. The list shall be delivered to all counsel and to chambers by 5
17 p.m. each day. If both sides agree in writing, the seven limit and the 38-hour lead time may be
18 changed. This does not change the document-use notice provision.

19 8. As stated at the pretrial conference, Kmart's motion to decertify is **DENIED**
20 **WITHOUT PREJUDICE.**

21
22 **IT IS SO ORDERED.**

23
24 Dated: November 6, 2012.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE